whether the number of Puisne Judges is in law limited by the provision for the time being existing for their remuneration.

The Act of Settlement (13 Will. III., c. 2) prescribes two securities for the independence of the Judges of the Superior Courts—that Judges' commissions be made *quamdiu se bene gesserint*, and that their salaries be settled and established. The latter security it rested with the Legislature itself to provide, and the object does not appear to have been fully attained for nearly a century after the passing of the Act of Settlement. Indeed, the full purpose of the Act can scarcely be said to have been effected until the number of the Judges of the High Court was fixed by Act of Parliament in the present reign; for, so long as the power remained with the Crown, as until then it did remain, to appoint an unlimited number of Judges to each of the three Courts of common-law, it was a legal possibility that there might be a Judge without a salary permanently provided by Parliament. I take it to be clear that by the original constitution of the three common-law Courts at Westminster the number of Puisne Judges was unlimited. Historically it is certain that the number has varied from time to time. Coke (4th Inst., 80) speaks of the number of the Judges of the Court of King's Bench as four at the least. And so late as the Acts 11 Geo. IV. and 1 Will. IV., c. 70, when an additional Puisne Judge was appointed to each of the three Courts, the right of the Crown, *proprio motu*, to increase the number of Judges appears to have been recognised. The language of that enactment imports as much. It would be impossible to argue that the Act of Settlement took away this power of the Crown.

It is, however, contended on the part of the informant that the Legislature of this colony, whilst adopting, as it has done in substance, the securities for judicial independence mentioned in the Act of Settlement, has by implication done what the Act of Settlement did not do, by abolishing the existing power of the Executive Government to appoint permanent Puisne Judges without restriction as to number. The question in truth turns upon the interpretation of the laws of the colony, reference to the constitutional law of England being useful merely by way of illustration.

Under the Charters of 1840 and 1846, and the ordinances establishing a Supreme Court, there was no limit to the number of Puisne Judges. Under the express terms of the ordinance of 1844 they held office during the pleasure of the Crown, and no provision existed for the security of their salaries. Coming down to the date of the Constitution Act, the only provisions of that statute which in anywise relate to the matter in hand are sections 64 and 65. Section 64 establishes a Civil List of £16,000 per annum for definite purposes, amongst which are stated amounts for the salaries of a Chief Justice and a Puisne Judge. Section 65 empowers the General Assembly to alter the appropriation of the Civil List; but it is provided that it shall not be lawful by any Act passed in exercise of that power to diminish the salary of any Judge holding office at the passing of such Act. These are the first provisions in our laws relative to the salaries of the Judges. The proviso in section 65 is a limitation by the Imperial Parliament of the powers of the local Legislature, and nothing more. The words in the earlier part of the section, that "until and subject to alteration by the Legislature the salaries of the Governor and Judges should be those respectively set against their several offices in the schedule," must obviously refer to the particular salaries and Judgeships provided for. There is nothing in such words to affect the Governor's power under the then existing law of the colony of creating other Judgeships. It is impossible to read the Act as enacting that "the Supreme Court of the colony shall henceforth consist of a Chief Justice and one Puisne Judge," or as enacting "no Judge shall henceforth be appointed without previous provision for his salary." The latter restriction might, under our present system of government, be desirable as a protection against possible abuse of the Executive power, but there is no trace of such a purpose in the Constitution Act. In reserving funds for the payment of two Judges, the Act did not bar the appointment under any existing legal power for the purpose of a greater number. Section 7 of the Act saves all existing laws and ordinances except so far as they may be repugnant; and there is here no repugnancy. The informant must therefore look to the legislation of the General Assembly for the support of his contention.

There are six colonial statutes bearing upon the question in controversy. Two of them—"The Supreme Court Judges Act, 1858," and "The Supreme Court Act, 1882"—are directly concerned with the constitution of the Court and the Judges' tenure of office; the other four—*i.e.*, the series of Civil List Acts—are money Bills, providing for, amongst other services, the Judges' salaries. The controversy turns wholly, or almost wholly, on the question whether these money Bills, which in some, though not in all, cases specify the number of Judgeships